

REMARKS

Claims 53-83 are pending in the present application. Claims 53-83 have been rejected. In the present amendment, claims 53 and 56 have been amended; and claim 59 has been canceled. Support for these amendments is in the specification as filed and as detailed below. Therefore, entry of these amendments is respectfully requested.

The Examiner noted that the drawings, filed on March 15, 2004, have been accepted. Also, the Examiner attached copies of the Notice of References Cited (PTO-892) and Applicants' Information Disclosure Statement, as initialed by the Examiner.

Also, included herewith is a Revocation of Power of Attorney with new Power of Attorney and Change of Correspondence Address Form, signed by J. L. Dasseux, the inventor's representative.

SEQUENCE LISTING

According to the Examiner, the present application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2); however, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the following reasons: The paper copy of the sequence listing filed March 15, 2005, which contains 254 sequences, is not the same as the computer readable form copy of the sequence listing obtained from one of the parent applications, which contains 258 sequences. In addition, the Examiner notes that the sequence listing statement made in section 8 of the continuation request form is incomplete because it does not identify the serial number and filing date of the prior application from which is to be obtained the computer readable form of the sequence listing.

In response, Applicants would note that the previously submitted paper copy of the sequence listing contained a typographical error on the first page: it indicated that there were 254 sequences, when, in fact, there were 258 sequences (as contained in the computer readable copy form); four of the sequences were intentionally skipped.

Also, Applicants would note that, in section 8 of the continuation request form, Applicants' representative inadvertently failed to identify the serial number and filing date of the prior application. That application serial number and filing date are 09/865,989, filed May 25, 2001, which is the parent application of the present application.

With the present Amendment, Applicants have corrected the typographical error in the paper copy and have included herewith a substitute paper copy of the Sequence Listing. Applicants are also sending, by Express Mail, a substitute computer readable form (CRF) copy of the Sequence Listing.

Applicants' representative would request that the paper copy and the computer readable form copy of the sequence listing presently on file be replaced with the paper copy and the computer readable form copy of the substitute sequence listing submitted herewith. It is hereby stated that the substitute sequence listing does not go beyond the disclosure of the present application and, therefore, does not constitute new matter. Accordingly, entry thereof in the present application is respectfully requested.

As Applicants' representative, I hereby state that the content of the paper copy and the computer readable form copy of the substitute sequence listing, submitted in accordance with 37 C.F.R. 1.821(c) and (e) and 37 CFR 1.825(a) and (b), are the same.

#### AMENDMENTS TO THE SPECIFICATION

The Examiner has requested that the status of the parent application 09/865,989 be updated in the priority claim inserted at page 1, line 1, of the specification by the preliminary amendment, filed March 15, 2004.

With the present Reply and Amendment, Applicants have amended the first paragraph of the specification to indicate that the parent application 09/865,989 has issued as U.S. Patent No. 6,734,169. Also, as noted above, Applicants have included herewith a substitute paper copy of the Sequence Listing.

No new matter has been introduced with the present amendments to the specification. Entry of these amendments to the specification is respectfully requested.

#### OBJECTIONS TO THE CLAIMS

Claims 53-83 have been objected to because of the following informalities: In claim 53, the recitation of the "pharmaceutically acceptable salt thereof" at line 5, and the recitation of the "salt thereof" at line 24, appear to be redundant. According to the Examiner, the definition of "R" in claims 53 and 56 which refer to C<sub>1</sub> alkenyl and C<sub>1</sub> alkynyl groups are an obvious typographical error because unsaturated alkenyl and alkynyl bonds require at least 2 carbon atoms.

The Examiner also advised the Applicant that should claim 53 be found allowable, claim 59 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. According to the Examiner, claim 59 is identical in scope with claim 53, because claim 59 merely repeats a limitation found at claim 53, lines 2-3.

With the present Reply and Amendment, Applicants have amended claim 53 to delete the language "salt thereof" at line 24. Applicants have also amended claims 53 and 56 to correct the typographical error in the definition of "R." These claims now refer to C<sub>2</sub> alkenyl

and C<sub>2</sub> alkynyl groups. In addition, in order to expedite prosecution, Applicants have canceled, without prejudice, claim 59.

Applicants assert that no new matter has been introduced with the present amendments to the claims and their entry is respectfully requested.

**OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTIONS**

**A. U.S. Patent No. 6,734,169 in view of Sepetov et al., Stig et al., Nutt et al. or Theodore et al.**

Claims 53-83 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,734,169 ("the '169 patent") in view of Sepetov et al. (U.S. Patent No. 5,470,753), Stig et al. (U.S. Patent No. 5,464,821), Nutt et al. (U.S. Patent No. 5,204,328), or Theodore et al. (U.S. Patent No. 5,578,287).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

**B. U.S. Patent No. 6,265,377 in view of Sepetov et al., Stig et al., Nutt et al. or Theodore et al.**

Claims 53-83 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6,265,377 ("the '377 patent") in view of Sepetov et al. (U.S. Patent No. 5,470,753), Stig et al. (U.S. Patent No. 5,464,821), Nutt et al. (U.S. Patent No. 5,204,328), or Theodore et al. (U.S. Patent No. 5,578,287).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

**C. U.S. Patent No. 6,037,323 in view of Sepetov et al., Stig et al., Nutt et al. or Theodore et al.**

Claims 53-83 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-54 of U.S. Patent No. 6,037,323 ("the '323 patent") in view of Sepetov et al. (U.S. Patent No. 5,470,753), Stig et al. (U.S. Patent

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No. 5,464,821), Nutt et al. (U.S. Patent No. 5,204,328), or Theodore et al. (U.S. Patent No. 5,578,287).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

**CONCLUSION**

On the basis of the above amendments and remarks, reconsideration of this application, as amended, and its early allowance, are respectfully requested.

Respectfully submitted,

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